SENATE RECORD VOTE ANALYSIS

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2nd Session | **Vote No. 282** | Page S-10261 Temp. Record

TREASURY APPROPRIATIONS/Taxing Overseas Deferred Income

SUBJECT: **Treasury, Postal Service, and General Government Appropriations Bill for fiscal year 1997 . . . H.R. 3756. Shelby motion to table the Dorgan amendment No. 5223 to the committee amendment beginning on page 16, line 16.**

ACTION: MOTION TO TABLE AGREED TO, 58-41

SYNOPSIS: As reported, H.R. 3756, the Treasury, Postal Service, and General Government Appropriations Bill for fiscal year 1997, will provide $23.5 billion in new budget authority (BA) for the Department of the Treasury, Postal Service, Executive Office of the President, and various independent agencies. This amount is $324 million more than the amount provided in FY 1996, $175 million more than the amount provided in the House-passed bill, and $1.36 billion less than requested by President Clinton.

The committee amendment beginning on page 16 line 16 would make a noncontroversial change.

The Dorgan second-degree amendment would tax the income attributable to sales of goods in the United States that were produced by overseas businesses owned by Americans, regardless of whether that income had actually been received by those Americans. (Under current law, income from American-owned overseas businesses is only taxed in the United States when it is brought into the United States, such as in the form of dividends.) The Dorgan amendment would continue to defer the taxation of income earned by such corporations as long as that income came from sales in countries other than the United States.

Senator Shelby moved to table the Dorgan amendment. Some debate preceded the making of the motion. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

Those favoring the motion to table contended:

The Dorgan amendment is based on the false premise that U.S. manufacturing concerns are being enticed by tax breaks to move overseas and then ship their products back to the United States for sale. The facts strongly suggest otherwise. First, if companies are

(See other side)

YEAS (58)			NAYS (41)			NOT VOTING (1)	
Republicans (49 or 92%)		Democrats (9 or 20%)	Republicans (4 or 8%)	Democrats (37 or 80%)		Republicans (0)	Democrats (1)
Abraham	Hatfield	Baucus	Campbell	Akaka	Hollings		Pryor-4
Ashcroft	Helms	Breaux	McConnell	Biden	Inouye		
Bennett	Hutchison	Feinstein	Smith	Bingaman	Kennedy		
Bond	Inhofe	Glenn	Warner	Boxer	Kerrey		
Brown	Jeffords	Johnston		Bradley	Kerry		
Burns	Kassebaum	Lieberman		Bryan	Kohl		
Chafee	Kempthorne	Moynihan		Bumpers	Lautenberg		
Coats	Kyl	Murray		Byrd	Leahy		
Cochran	Lott	Nunn		Conrad	Levin		
Cohen	Lugar			Daschle	Mikulski		
Coverdell	Mack			Dodd	Moseley-Braun		
Craig	McCain			Dorgan	Pell		
D'Amato	Murkowski			Exon	Reid		
DeWine	Nickles			Feingold	Robb		
Domenici	Pressler			Ford	Rockefeller		
Faircloth	Roth			Graham	Sarbanes		
Frahm	Santorum			Harkin	Simon		
Frist	Shelby			Heflin	Wellstone		
Gorton	Simpson				Wyden		
Gramm	Snowe						
Grams	Specter						
Grassley	Stevens						
Gregg	Thomas						
Hatch	Thompson						
	Thurmond						

EXPLANATION OF ABSENCE:
1—Official Buisiness
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

Compiled and written by the staff of the Republican Policy Committee—Larry E. Craig, Chairman

primarily motivated by favorable tax treatment, then logically one would assume that they move primarily to low tax jurisdictions. However, more than 70 percent of United States-owned foreign manufacturing assets are in high-tax countries like the United Kingdom, Japan, Germany, France, Italy, Belgium, and Australia. Many of those countries have higher pay scales as well. In contrast, the two low-cost jurisdictions that are most commonly cited as being places that manufacturers are fleeing to--Ireland and Singapore--have only 4.2 percent of the total assets held by U.S. manufacturing concerns. Further, excluding Canada, only 7.2 percent of total sales by United States-owned foreign firms were to the United States market in 1990. Finally, less than 15-percent of imports into the United States from United States-owned affiliates are from low-tax countries. These numbers incontrovertibly show that the reason for the decline in United States manufacturing is not because our tax deferral law is encouraging companies to manufacture overseas the goods that they sell here. At most, it may be a marginal factor.

Companies are not going overseas to manufacture because they can defer income on such ventures until it is repatriated. Our colleagues have dwelled on such issues as lower wage rates, laxer environmental laws, and less regulations, but again most of these companies are going to countries that are even more under the thumb of the government than is the United States. The main reason, going by sales, is to be nearer to their customers. In 1993, 66 percent of U.S. foreign subsidiaries' products were sold in the countries in which they were made. Further, we know that one-fourth of all U.S. exports are to those foreign-owned subsidiaries and 2 million United States jobs are from those sales.

A common principle of U.S. tax law is that one is not taxed on income until one actually receives that income. For example, if one owns and lives in a house, and the value of that house climbs by $50,000, the Federal Government does not tax the owner of that house as getting $50,000 in income. No tax applies until the house is actually sold. Similarly, with deferred income on foreign investments, gains from foreign investment are not taxed until they are actually returned to the United States. If an affiliate makes $10 million, and that money stays overseas, then it is unfair to tax the parent company as though it had that $10 million. When that money is repatriated, such as in the form of dividends, it is fully taxable, but not before. Nearly every country in the world has this deferral for foreign investment income.

Under the Dorgan amendment, any income a U.S.-owned foreign corporation made from U.S. sales would be subject to U.S. tax, even if that sale went through third parties. How could this requirement be enforced? Suppose a manufacturer made computer chips, which might end up in countless different electronic products to be sold around the world, after having moved through several different vendors. Once the original company sold the chips, though, it would have no easy way of tracking what products they went into or where those products ended up.

The area addressed by the Dorgan amendment, taxes on foreign income, is perhaps the most complicated area of the United States tax code. Our colleagues have taken advantage of this complexity to claim, falsely, that it contains a loophole to encourage companies to fire American workers and to hire cheap foreign labor. In the highly charged, political atmosphere of an election year, such a charge is dynamite. Certainly some of our colleagues are very sincere in their misunderstanding of deferred income, but they are sincerely wrong. However, though they may be sincere in their misunderstanding of deferred income, trade, or countless other matters, they are under no illusions as to the fate of this amendment and even as to its unconstitutionality. All they want is for Senators to go on record, again, this time right before an election, as opposing their amendment. They further understand that the House would "blue-slip" the bill if it were added. The Dorgan amendment is a revenue measure, and constitutionally such measures must originate in the House. The House jealously guards this responsibility.

Though Senators may be sincere in their desire to eliminate an incentive for companies to close up their manufacturing plants in the United States and open up plants overseas, the fact remains that no evidence exists that such an incentive exists. Our colleagues have proposed an unconstitutional proposal to address a nonexistent problem. Clearly it should be tabled.

Those opposing the motion to table contended:

Our colleagues need to wake up. In 1979, 24 percent of Americans had manufacturing jobs. Today only 15 percent do. Every year the number of people who are actually employed in making products declines. We are moving towards a service economy. A country cannot survive on service jobs. It needs to be able to produce and create tangible, real wealth in order to survive. One of the reasons why we are losing manufacturing jobs is that our tax code is structured to reward companies that take their jobs overseas. Under current law, if a company shuts down its plant, fires all of its workers, and opens up a new plant in a foreign country with low taxes, no worker protections, and no environmental laws, it gets a huge tax break in addition to being able to operate much more cheaply. That tax break is that it does not have to pay any tax on any profits it makes from its overseas operations until it brings the money back to the United States. The money, of course, never comes back. Though the money never comes back, the products often do. Goods that were produced by American workers at fair wages, under safe conditions, and in an environmentally sensitive manner, and the profits on which were taxed, now are instead made overseas by slave labor, and the Government responds by making the profits tax-free in America by deferring the tax. The Dorgan amendment would stop this outrage. This amendment deserves our strong support.